



TAX REPORT



WISCONSIN DEPARTMENT OF REVENUE

NEW SALES AND USE TAX LAWS ENACTED IN 1985

The Wisconsin Legislature recently enacted new sales and use tax laws. This report explains the new laws created by 1985 Wisconsin Act 29. The effective date and statute number of each law change is shown in parentheses after the title.

Exempt Additional Farm Purchases (Amend s. 77.54(3m), create s. 77.54(33) and (34), effective July 1, 1986)

Sales/use tax exemptions have been added for the following items purchased by persons engaged in farming as a business enterprise.

(a) Milk house supplies used exclusively in producing and handling milk on dairy farms.

(b) Medicines used on farm livestock, not including workstock.

(c) Animal bedding used exclusively in farming.

Exempt 35% of Selling Price of New Mobile Homes and Total Selling Price of Used Mobile Homes (Create ss. 77.51(11)(b)6 and (12)(b)5 and 77.54(31), effective January 1, 1987)

A sales/use tax exemption is provided for 35% of the total amount for which a new mobile home that is a primary housing unit is sold. No credit may be allowed for trade-ins. The exemption does not apply to a lease or rental.

An exemption is also provided for the full amount for which used mobile homes that are primary housing units are sold or purchased.

Exempt Mobile Mixing and Processing Units (Repeal s. 77.51(27)(c), create s. 77.54(5)(d), effective July 20, 1985)

An exemption is provided for mobile units used for mixing and processing and the motor vehicle or trailer on which the mixing unit is mounted, including accessories, attachments, parts, supplies and materials for the vehicles, trailers and units. This new exemption most commonly applies to mobile redi-mix concrete units and feed grinding units, mounted on trucks, including the truck chassis and motor.

Telecommunication Services Provided to Interexchange Carriers (Amend s. 77.51(7m), create ss. 77.51(4)(m) and (7)(p), effective July 20, 1985)

The definitions of "retail sale" and "retailer" are amended to provide that gross receipts of a telephone company from providing an interexchange carrier services, which permit the origination or termination of telephone messages between a customer in this state and one or more points in another telephone exchange, are retail sales which are subject to the sales tax. The current Federal Communication Commission Tariff No. 39 and the Wisconsin Public Service Commission Tariff No. 3 describe the circuits provided by the local telephone company to an interexchange carrier as "access services".

Impose Sales Tax on Motor Fuel or Special Fuel on Which Tax is Refunded Because of Nonhighway Use (Amend s. 77.54(11), effective for claims for refund filed on or after September 1, 1985)

If motor fuel or special fuel is purchased exempt from sales taxes under s. 77.54(11), Wis. Statutes, because it is subject to the motor fuel or special fuel tax under Chapter 78, and then the motor fuel or special fuel taxes are later refunded under s. 78.75 because the buyer does not use the fuel in operating a motor vehicle upon public highways, such fuel will be subject to the sales/use tax, except where other exemptions may apply, such as use in farming.

Under prior law, such motor fuel or special fuel was exempt from sales/use tax, even though the motor fuel or special fuel tax was later refunded because of nonhighway use.

Exempt Motorized Wheelchairs and Scooters (Amend s. 77.54(22)(e), effective September 1, 1985)

The law clarifies that motorized wheelchairs and scooters are included within the meaning of exempt wheelchairs for use by persons who are ill or disabled.

Exempt Gross Receipts From American Legion Baseball (Create s. 77.54(35), effective September 1, 1985)

Sales of tangible personal property, tickets or admissions by any baseball team affiliated with the Wisconsin Department of American Legion baseball are exempt.

Exempt Boats Purchased Out-of-State But Stored in Wisconsin (Create s. 77.53(17m), effective September 1, 1985)

A use tax exemption is provided for a boat purchased in a state contiguous to Wisconsin by a person domiciled in that state if the boat is berthed in Wisconsin's boundary waters adjacent to the purchaser's state of domicile, if the transaction was an exempt occasional sale under the laws of the state in which the purchase was made, if the boat is not located in Wisconsin more than 60 consecutive days, other than while it is in storage, and if Wisconsin is not the state of principal use.

Exempt Admission Fees to Certain Museums (Amend s. 77.54(10), effective July 20, 1985)

Gross receipts from admission fees to any museum operated by a nonprofit corporation under a lease agreement with the state historical society are exempt from sales tax. Currently, the exemption only applies to the Circus World Museum in Baraboo, Wisconsin.

Exempt Processing Railroad Crossties (Create s. 77.55(2m), effective July 20, 1985)

The new law provides a sales tax exemption for: "the gross receipts from sales of railroad crossties to a common or contract carrier, shipped wholly or in part by way of the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state if the property is transported to the out-of-state destination for use by the carrier in the conduct of its business as a carrier. Interruption of the shipment for storage, drying, processing or creosoting of the railroad crossties in this state does not invalidate the exemption."

Repeal Exemption for Hospital Service Insurance Corporations Organized Under s. 613.80(2) (Amend s. 77.54(9a)(f), effective September 1, 1985)

The sales/use tax exemption for purchases by hospital service insurance corporations organized under s. 613.80(2), Wis. Statutes, is eliminated.

Increase Sales Tax Security to \$15,000 (Amend s. 77.61(2), effective October 1, 1985)

In order to protect the state's revenues, the Department of Revenue may request security up to \$15,000 from any

person who is or will be liable to it for sales and use taxes. (Maximum security was \$5,000 under prior law.)

Also, in determining the amount of security, the Department may consider the person's payment of all other taxes (income, corporation franchise, withholding taxes, etc.) administered by the Department and any other relevant facts.

Renewal of Seller's Permit—\$400 Delinquency Includes All Taxes (Amend ss. 77.52(10)(b) and 77.52(11)(a), effective October 1, 1985)

A Seller's Permit will not be renewed if on the date the permit expires, the person has delinquent taxes of \$400 or more for any taxes under Chapters 71, 72, 76, 77, 78 or 139. This includes income, franchise, withholding, gift, inheritance, utility, sales and use, motor fuel, cigarette, tobacco, liquor, wine and beer taxes. "Taxes" includes taxes, costs, penalties and interest. (Under prior law the \$400 standard only applied to delinquent sales and use taxes.)

Also, the Department after a hearing may revoke a Seller's Permit if a person is delinquent for any of the taxes in Chapters 71, 72, 76, 77, 78 or 139 or fails to timely file any return or report after having been requested to do so by the Department of Revenue.

Expansion of Liability for Sales Tax (Amend s. 77.60(9), effective July 20, 1985)

Other persons, in addition to officers and employees of any corporation subject to the sales/use tax, who have responsibility for making payments of the tax and who willfully fail to make such payment shall be personally liable for such amounts.

Penalty of 25% for Failure to Keep Records (Amend s. 77.61(4)(a), effective July 20, 1985)

After the Department has given notice to a person to keep records needed for the Department to compute sales and use taxes the person should pay, a 25% penalty may be added to the taxes assessed on the basis of information not contained in the required records. This conforms the sales/use tax penalties for inadequate records with income tax penalties for similar situations.

Increase Seller's Permit Fee to \$5 (Amend s. 77.52(8)(a) and (b), effective July 20, 1985)

The fee for obtaining a Seller's Permit has been increased from \$2 to \$5.